IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

MFA.No. 1006 of 2002()

OPMV.269/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANT: PETITIONER

RADHA, AGED 60 YEARS, W/O.CHANDRAN,
PULICKAPPARAMBU HOUSE, BLOCK PADY,
KAITHARAM P.O., NORTH PARUR.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.MATHEWS V.JACOB (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENTS: RESPONDENTS
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1. SAJAN P.C. S/O.CHANDRAN,
PULICKAPARAMBIL HOUSE, KONGORPILLY,
NORTH PARUR.

2. NATIONAL INSURANCE CO.LTD,
R.S.ROAD, ALUVA.

BY ADV. SRI.M.A.GEORGE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.

M.F.A. NO. 1006 OF 2002

Dated this the 2nd day of March, 2007

J U D G M E N T

P.R.Raman, J.

This is an appeal by the claimant before the Motor Accidents Claim Tribunal, Perumbavoor in OP(MV) No.269/1998. The appellant sustained injuries in a motor accident, while travelling in a scooter as a pillion rider. The said vehicle was driven by the first respondent, the son of the appellant and the scooter capsized and as a result she sustained injuries.

2. The Insurance Company contested the claim after seeking permission under Section 170. An amount of Rs.2,50,000/- was claimed by way of compensation under various heads. However, the Tribunal awarded an amount of Rs.88,640 with interest at 9%. The petitioner is not satisfied with the compensation as awarded and claims further enhancement.

3. It was contended that an amount of Rs.1,706/- was deducted from out of the medical expenditure proved by documents without any reason. Likewise, for loss of earning only

three months is taken into consideration. In this regard, it is contended that petitioner was a tailor by profession and considering the nature of the injuries sustained, she continued to be disabled and could not do the work for a longer period and atleast a minimum of six months should have been taken as the period for loss of earning. It is also contended that the partial permanent disability percentage as assessed by the Court below is too low.

4. As regards the contention that loss of earning for a period of six months ought to have been allowed by the court below, there is no actual plea or evidence in this regard. The claimant is aged 55 years at the relevant time. Whether she was a tailor by profession is also not proved. The Tribunal in such circumstances has awarded a reasonable compensation for a period of three months taking a notional income of Rs.1,500/- We do not find any reason for further enhancement under this head.

5. As regards the partial disability compensation, 8% is taken and it is to be noticed that no medical certificate has been produced by the claimant to prove the disability percentage. Still the Tribunal has awarded compensation under this head also.

We do not think the appellant is entitled for any further amount under this head.

As regards the claim for enhancement towards medical expenditure, admittedly the medical bills produced will evidence an expenditure of Rs.52,749/-, but only 51,043/- was awarded. But the Insurance Company disputed the claim. We find that total compensation awarded under various heads is not only reasonable, but also under some head it is even more than what the petitioner is entitled to. In such circumstances, we do not think any enhancement under this head necessary. We find no merit in the appeal. Dismissed.

P.R.RAMAN, JUDGE

ANTONY DOMINIC, JUDGE

Rp